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STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

1 TRACY PETERLIN
LAW OFFICES OF TRACY PETERLIN
2 39340 Calle Contento
Temecula, CA 92591
3 (951) 699-2050
Facsimile: (951) 699-2070
4

5
6 THE STATE BAR COURT
7 HEARING DEPARTMENT - LOS ANGELES
8
9

10 In re the Matter of:) CASE NO: 05-O-02245;
11 TRACY PETERLIN,) [05-O-02839;
12 No. 187604) 05-O-04471; 05-O-04825]
13 A Member of the State Bar.) RESPONSE TO COMPLAINT FOR
14) DISCIPLINARY CHARGES
15)
16)
17)

18 **COUNT 1**

19 Robert Zamudio retained my firm to seek back child support for
20 his guardian grandson. It was explained to Mr. Zamudio, that I would
21 not file the OSC with the court until the entire retainer was paid.

22 Mr. Zamudio paid the retainer on April 20, 2005, and immediately
23 drafted the OSC. My office staff spoke with Mr. Zamudio in order to
24 obtain a phone number for the father in an effort to get an address
25 for service and ascertain if the father had an income.

26 I spoke with the father in April of 2005 and the father claimed
27 that Mr. Zamudio and he had an agreement for support and that he had
28 paid the agreed amount. The conversation was very antagonistic,

1 father began swearing, calling grandfather a liar, and was told, by
2 me, to please provide proof of any monies paid. Father continued to
3 shout obscenities at me and hung up on me.

4 This conversation was reported to Mr. Zamudio and I suggested we
5 wait to see if the accounting was forthcoming. I also sent a clerk to
6 North County Court (San Diego County) to pull any information she
7 could out of the guardianship file that might confirm with the father
8 who told us about the support order. We were able to obtain
9 information to confirm that there had been a support case with the
10 District Attorney's Office and Kimberly Zamudio as the collecting
11 party. After further research I was able to discover the District
12 Attorney's Office in San Diego was in fact collecting on an existing
13 order for this child, however the payee was not the guardian
14 grandfather. The office received notice on May 6th regarding the
15 substitution attorney.

16 Mr. Zamudio met with me for 2.5 hours on March 14th, 2005. Mr.
17 Zamudio was notified that we had received his payment on April 20th,
18 2005 and that his file had been received. My paralegal, Laurie
19 Eberwein notified Mr. Zamudio that we would dispatch a clerk to get
20 any information she could from the file. Mr. Zamudio was also
21 notified that we would call him to sign the OSC documents when the OSC
22 was finalized. The OSC was completed, however it would be reckless,
23 given the information provided by the father and confirmed by the
24 District Attorney's Office to proceed in a request for support if
25 support is already being paid to another payee.

26 **COUNT 2**

27 Mr. Zamuido was kept apprise of this research and information and
28 in fact was the person who gave us the father's telephone number.

COUNT 5

1
2 On February 4th Gene Monper retained my services to appear at a
3 March 30th, 2005 juvenile court hearing for his son. Mr. Monper asked
4 us to hold his check for a week and we began work on the file on
5 February 8th, 2005. Planning to retain, I told him I would only charge
6 him 1 hour for the 2.5 hours I spent with him, his son, and his father
7 on February 4th, 2005.

8 On February 15, 2005 I called the District Attorney's office in
9 Pomona and requested the clerk pull up Kyle Monper on the computer to
10 see if a DA had been assigned. One had not yet been assigned, however
11 the court date of March 20th, 2005 was confirmed.

12 That same day I called the probation department, San Gabriel
13 Office and asked the clerk that answered the phone if reports from
14 probation were mailed to the minor's parents prior to the court date.
15 After inquiring of another employee, the clerk responded that reports
16 were usually available to all parties at the court date.

17 The charges indicate Mr. Monper called me regarding a meeting
18 with probation on March 11, 2005. Mr. Monper never called regarding
19 that meeting, according to my staff, because his father had come in
20 the office prior to the meeting (which was actually March 9th, 2005 at
21 11:00 a.m.) and had explained to the grandfather that attorneys didn't
22 normally go to probation meetings because probation officers would
23 want to speak directly with the minor and his parents. I instructed
24 Kyle and grandpa at great length, what to highlight for the probation
25 officer. That Kyle was now living in Riverside County with grandpa;
26 Kyle was doing excellent in his studies, that his discipline and
27 demeanor at grandpa's house was great. I even discussed with Kyle
28 that he should have a short haircut, live by a curfew, I suggested

1 community service options and told Kyle how to present himself to the
2 probation officer. Both grandpa and Kyle thanked me and said they
3 were ready for the interview on March 9, 2005. Mr. Gene Monper never
4 called my office after the meeting with probation and never informed
5 me that the case had been dismissed.

6 ON the morning of March 30, 2005, I drove to the Pomona
7 Courthouse and could not reach Gene Monper on his cell phone to
8 confirm our meeting time. I finally got a hold of grandpa Monper, who
9 informed me that Gene had told him that he had notified my office of
10 the dismissal, which he had not.

11 Following the call, Gene Monper called our office (11:00 a.m., on
12 March 30, 2005) and informed my secretary that the case was dismissed,
13 (file notes to be provided), and all was well. I returned his call
14 angry because I had driven to the Pomona Courthouse and Mr. Monper
15 felt that not notifying us was "fair game" because we had not called
16 him and given him updates either. Mr. Monper was very nasty with me.
17 On June 20, 2005, I received a letter from Mr. Monper demanding an
18 accounting and refund of current retainer.

19 My paralegal, Laurie Eberwein spoke with Mr. Monper in early July
20 and explained that we had fired Gina Lord, whom Mr. Monper had dealt
21 with and it would take up to the next billing cycle to get him a
22 refund. Mr. Monper was refunded \$930.00 on August 12th, 2005. That
23 refund did not include any billing for the March 30th, 2005 court date,
24 which I scheduled around and drove to, even though I did not appear.

25 After Mr. Monper contacted the State Bar, I called him in
26 December 2005. I told him that it was not fair that I not be paid
27 anything for the work that I did on his case. He told me that he was
28 aware from my fired employee Gina Lord that several clients had made

1 complaints about our firm's slow service in March - July 2005. Mr.
2 Monper said that he was aware that my son was critically ill during
3 that time and he was sorry but he felt that I "should pay" for not
4 returning his phone call in April. I explained that I didn't receive
5 the phone message and apologized. Mr. Monper told me that he didn't
6 get "every penny of his retainer back"; he would organize others to
7 "take me down".

8 I believe my billing was fair, but I also have never had a bar
9 complaint and never cheated a client so I believed it was better to
10 refund all of Mr. Monper's money. I work in juvenile court with Mr.
11 Monper's sister and she sends many referrals to me so I concluded that
12 even if the money was earned, it was not worth the fight and the bad
13 feelings, and sent Mr. Monper the remaining \$1,542.50. I took no
14 money for the case, even though I spent more than 6 hours on it.

15 **COUNT 6**

16 See above response. Although Mr. Monper's son's case was
17 dismissed I felt it was fair that he be charged for the time that I
18 spent with the son, an additional meeting with grandfather and son,
19 and other time charged for work done prior to the case dismissal.

20 **COUNT 7**

21 See above response.

22 **COUNT 8**

23 On July 26, 2005 Mr. Zamora retained me to modify her custody
24 orders to request supervised visitation for Respondent. I explained
25 to Ms. Zamora that we could complete her paperwork by the end of July
26 if we received her entire file immediately but the court date would
27 not occur until after the scheduled August vacation.

28 My paralegal prepared the OSC regarding the modification.

COUNT 12

1
2 I was employed by Irma Ashkar and signed a substitution of
3 attorney, subbing myself into the case on April 14, 2005. That
4 substitution of attorney was sent to former counsel Ann Marie Fritz on
5 April 14, 2005. Although a follow-up letter was sent to Ms. Fritz's
6 office on April, 2005 the substitution of attorney with Ms. Fritz's
7 signature was never received.

8 Regardless of the status of the substitution of attorney, I began
9 to work on the case. Ms. Ashkar came into the office twice during May
10 and spoke with the then secretary, Gina Lord, claiming that she "had
11 to speak with me" and she waited over an hour on both occasions,
12 talking rapidly to Ms. Lord and becoming very agitated. Ms. Lord was
13 very upset after one of Ms. Ashkar's May 2005 visits and suspected Ms.
14 Ashkar of "using drugs".

15 In the first week of June 2005, Ms. Ashkar met with me at length
16 and claimed her police officer husband had pushed her out of the way
17 when leaving with their child that weekend. Ms. Ashkar demanded I
18 file an ex-party restraining order and request the father have
19 supervised visits. I attempted to confirm the police call and was
20 unable to confirm any police response.

21 I also met with opposing counsel Steve Cohen, who gave me a brief
22 history of the case, informing me that Ms. Ashkar was "crazy", had
23 regularly reported him to the State Bar for doing his job, had tried
24 to get several previous attorneys to file ex-parte TRO's and also told
25 me that if I did file a TRO based on her unsubstantiated word, that he
26 would request a psych evaluation of Irma and full custody to the
27 husband.

28 / / /

1 At that point I called the former counsel, Ms. Fritz to follow-up
2 on the receipt of Ms. Ashkar's file. I knew Ms. Fritz was attempting
3 to close her practice and that was most likely the reason for her
4 delay in sending the file. Ms. Fritz's office informed my office that
5 the sub had been returned but the file had not yet been sent. Ms.
6 Fritz's secretary agreed to send another copy with the file.

7 Ms. Ashkar continued to "drop by" the office twice during June to
8 request that the TRO be filed. Both times I was not present and I
9 asked Ms. Lord to explain that I needed to review the file from Ms.
10 Fritz before we filed any documents carelessly that may cost Ms.
11 Ashkar her son.

12 On Ms. Ashkar's "visit" to the office on June 29, 2005 she
13 arrived at 11:00 a.m., and refused to leave. Ms. Ashkar would not
14 leave the office to allow Ms. Lord to lock the office for lunch. I
15 received several frantic phone calls from Ms. Lord, however, I was in
16 court. The last message I received from Ms. Lord was at approximately
17 3:30 p.m., Ms. Lord was crying and stated that she "couldn't handle
18 Ms. Ashkar any more" and was "writing Irma a check so she would leave
19 the office", and Ms. Lord was "quitting".

20 When I arrived at the office at approximately 4:30 p.m., the
21 office was locked. On my desk was a Xerox of a check written to Irma
22 Ashkar in the amount of \$2,050.00 my name was signed by Ms. Lord, who
23 had no authority to do so.

24 On June 30, 2005, I left a message with Joyce Fleming's
25 secretary, to hold onto the check written to Irma Ashkar because it
26 had not been authorized by me and was for an incorrect amount. After
27 requesting copies of all of the checks written that month from the
28 bank to find out why the balance in the account was several thousand

1 dollars lower than it should be, I discovered that Ms. Lord had
2 written checks to herself from my general account on the day previous
3 to and the same day as she wrote Ms. Ashkar's check. Ms. Lord never
4 returned to work and was notified that I was considering prosecution
5 of her for the stolen money and checks written.

6 I was out of the office for the month of August and one half of
7 September and did not complete the July billing until October. I
8 notified Joyce Fleming's office of the problem with my father's
9 illness and disappearance. When an accounting was finally done, a
10 cashier's check was issued to Ms. Fleming. Much more time was put
11 into Ms. Ashkar's case than reflected in the return of \$2,050.00 to
12 her; however, I felt it was fair to return the amount promised by Ms.
13 Lord in June because it had taken me so long to finish the accounting
14 and send the check.

15 **COUNT 13**

16 Ms. Ashkar's refund does not reflect any unearned fees as our
17 firm did much more work, which is not reflected by \$500.00 worth. Ms.
18 Ashkar's visits to my office, if charged accurately, would far exceed
19 the retainer paid.

20 Dated: April 17, 2006

21
22 
23 TRACY PETERLIN

PROOF OF SERVICE BY MAIL

(Must be Attached to Original Document at Time of Filing)

Case No. 05-0-02245 et al.,

I, the undersigned, say: I am over the age of eighteen years and not a party to the within action or proceeding; that my residence or business address is 39340 Calle Contento, Temecula, California.

That on the 19th day of April, 2006, I served a copy of the paper to which this proof of service by mail is attached,

RESPONSE TO COMPLAINT FOR DISCIPLINARY CHARGES

by depositing said copy enclosed in a sealed envelope with postage hereon fully prepaid, in the United States Postal Service mail box at the City of Temecula, California, addressed as follows:

Mr. William F. Stralka Faxed - (213) 765-1319
STATE BAR OF CALIFORNIA
1149 South Hill Street
Los Angeles, CA 90015-2299

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Executed on April 19, 2006, at Temecula, California.



(SIGNATURE)